

Date: December 16, 2014

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RAMON PICKENS,

Plaintiff,

v.

KANE COUNTY JAIL,

Defendant.

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Case No. 14 C 6467

MEMORANDUM ORDER

Ramon Pickens ("Pickens") has utilized the printed form of Complaint made available by the Clerk's Office to prisoner plaintiffs who claim violations of their constitutional rights, charging the "Kane County Jail" with conduct that he contends is actionable under 42 U.S.C. § 1983 ("Section 1983"). Because Pickens has exhibited a blithe disregard for virtually every requirement of such a lawsuit, this Court's initial screening under 28 U.S.C. § 1915A(a)¹ calls for the immediate sua sponte dismissal of both the Complaint and this action. But because Pickens cannot escape scot-free from burdening the justice system in this fashion, some added explanation is included here.²

For one thing, the "Kane County Jail" is not of course a suable entity. Although that flaw might possibly be cured through the choice of a proper target as a defendant, at this point Pickens has failed to state a claim in any legitimate sense. And that alone justifies a threshold dismissal.

¹ All further references to provisions of Title 28 will simply take the form "Section --," omitting the prefatory "28 U.S.C. §."

² This Memorandum Order will deliberately eschew any substantive analysis of Pickens' several assertions, except to note that it would trivialize Section 1983 to consider those of his assertions that appear to stem from hypochondria rather than from any serious constitutional deprivation.

Next and importantly, Pickens has neither paid the \$350 filing fee nor sought the special type of in forma pauperis treatment that is provided for prisoner litigants under the terms of Section 1915 -- terms that enable a prisoner plaintiff to go forward without the advance payment of the entire filing fee, but at the cost of having to pay that full filing fee in future installments. Accordingly, in the absence of Pickens' prompt payment of the full \$350 up front (a payment that he seems unlikely to be able to make), he is ordered under Section 1915(a)(2) to file an In Forma Pauperis Application (copies of which are being sent to him with a copy of this memorandum order) together with a certified copy of his trust fund account statement showing all deposits and withdrawals during the 6-month period that ended August 10, 2014.³ If Pickens was also in custody at any institution other than the Kane County Jail during that time frame, he must submit all certified statements that encompass the entire 6-month period.

Lastly, Pickens provides no showing at all as to his exhaustion of all administrative remedies, which 42 U.S.C. § 1997e(a) makes a precondition to any such prisoner lawsuit. But because non-exhaustion is an affirmative defense even though the statute makes it a precondition to suit, the current dismissal is not based on that omission at all.

In summary, Section 1915A(b)(1) calls for dismissal of both the Complaint and this action, and this Court so orders. Finally, this dismissal counts as a "strike" under the provisions of Section 1915(g).



Milton I. Shadur
Senior United States District Judge

Date: August 22, 2014

³ That's the day that Pickens noted as his having signed the Complaint.

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Case No. 14 C 6467

MEMORANDUM ORDER

This Court's brief August 22, 2014 memorandum order ("Order") dismissed both the Complaint and this action instituted by pro se prisoner plaintiff Ramon Pickens ("Pickens"). But because Pickens' fatal substantive deficiencies were accompanied by his failure either to pay the \$350 filing fee up front or to seek the special type of in forma pauperis treatment that 28 U.S.C. § 1915 ("Section 1915") provides for prisoner litigants, the Order also transmitted an In Forma Pauperis Application to Pickens for his execution and submission, and it also ordered that he also provide to this Court a certified copy of his trust fund account statement showing all deposits and withdrawals during the six-month period that had ended August 10 (see Section 1915(a)(2)).

Pickens has not responded to the Order's directives at all, but he cannot thus escape the statutory burden imposed by Congress on litigants in his situation. Accordingly the financial officer at the Kane County Jail is ordered to remit to this District Court forthwith, as an initial partial filing fee, an amount equal to 20% of the average monthly deposits to Pickens' trust fund account there during the six-month period that ended August 10, 2014 (or during such lesser period as Pickens was in custody at that institution) (see Section 1915(b)(1)(A)) plus 20% of any

amounts deposited in that account from August 14 through September 30, 2014. That amount is to be collected from Pickens' trust fund account and to be paid directly to the Clerk of Court ("Clerk"):

Office of the Clerk
United States District Court
219 South Dearborn Street
Chicago IL 60604

Attention: Fiscal Department

After such payment the trust fund officer at Kane County Jail (or at any other correctional facility where Pickens may hereafter be confined) is authorized to collect monthly payments from his trust fund account in an amount equal to 20% of the preceding month's income credited to the account. Monthly payments collected from the trust fund account shall be forwarded to the Clerk each time the amount in the account exceeds \$10 until the full \$350 filing fee is paid. Both the initial payment and all future payments shall clearly identify Pickens' name and the 14 C 6467 case number assigned to this action. To implement these requirements, the Clerk shall send a copy of this order to the Kane County Jail trust fund officer.



Milton I. Shadur
Senior United States District Judge

Date: October 2, 2014